

**REMARKS**

The Office Action mailed February 27, 2006 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested.

Claims 33-38, 41, 46, 47-50, 52, 54, and 56-57 are pending in this application.

**Amendment to the Claims**

Claim 46 has been amended to clarify the language so that method claim 46 does not depend upon apparatus claim 33, which is directed to a network device. Claim 46 has been amended so that it does not depend on claim 33. No new matter has been added.

**Claim Objections**

Claim 46 was objected to based on informalities. The dependency of method claim 46 has been corrected, such that claim 46 is no longer dependent on apparatus claim 33, as appropriate. Reconsideration and withdrawal of this objection is therefore requested.

**Claim Rejections Under 35 USC §102**

Claims 33-38, 41, 46, 47-50, 52, 54, and 56-57 stand rejected under 35 USC §102(e) as being anticipated by U.S. Patent Application Number 2004/0133793 ("Ginter").

Ginter deals generally with a virtual distribution environment ("VDE") for managing electronic rights protection in a secure manner. The invention at most discloses the installation of hardware and/or software at end user "electronic appliances" such as computers, set top boxes for televisions, telephones and sound systems to manage electronic rights protection and the integrity and confidentiality of content accessed by a user. In contrast, the claims of the present invention relate to "detect[ing] a predetermined tag within content" during the "distribution of content over a network or networks" and "report[ing] the detection together with information identifying a sender and/or recipient of the content."

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Claims 33-36, 46, 52 or 56*Claims 33-36 and 52*

The Office Action states that claims 33-36 and 52 are anticipated by Ginter, referencing paragraphs 221-222, 287, 425-487, and 1721-1734. However, the Office Action simply lists paragraph numbers of Ginter at the end of each claim and does not explain how Ginter discloses any features of the claims. The paragraphs specifically cited by the Office Action were thoroughly reviewed and are discussed below.

Applicant respectfully submits that Ginter does not disclose "detecting a predetermined tag within content passed along the communications path" and also does not disclose reporting "the detection together with information identifying a sender and/or recipient of the content" by a network device as claimed in claims 33-36 52. Paragraphs 221-222, 287, 425-487 and 1721-1734 are examined in the following paragraphs.

Paragraph 221 at most generally discloses embedding watermarks in content so that the person or VDE installation that duplicates content without authorization can be tracked when the content is "released in clear form," while paragraph 222 discusses "smart objects" that perform functions for users or VDE installations.

Paragraphs 287 and 447-451 and 482-487 at most describe the Secure Processing Unit ("SPU") that is present in each "electronic appliance." In addition to explaining the tamper resistant nature of the SPUs, paragraphs 287 and 447-451 explain that the SPU present in each "electronic appliance" may have long-term and short-term memories, a protected clock/calendar, and circuits designed for performing specific tasks rapidly and efficiently. Paragraphs 482-483 provide further details regarding electronic appliances and the SPUs, including the idea that each electronic appliance may include one or more SPUs and that each SPU can be used to perform one or more VDE functions on VDE objects. Paragraphs 484-487 simply discuss the tamper resistance of the SPUs in more detail, including a discussion of different embodiments used to prevent the SPU from being tampered with, including a hardware security barrier, only allowing access to the components of the SPU through a bus interface unit, ion implantation, and self-destruction methods.

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Paragraphs 425-446 at most generally describe a process for using digital information by a VDE participant or user and the content of a container holding the digital information, such as the information content, permissions record, budgets and other methods. Paragraphs 452-481 at most disclose the "Rights Operating System" of the VDE electronic appliances and explain that the VDE appliances running or containing VDE applications or operating systems are items like computers, computer terminals, device controllers for use with computers, peripheral devices for use with computers, digital display devices, televisions, media players, audio and video amplifiers, electronic game players, radios, and telephones. These paragraphs also discuss the input/output capabilities of these appliances and the operating system that manages the appliances, as well as the scalability and transparency of the operating system. Furthermore, these paragraphs discuss storing certain information in secondary storage. Paragraphs 1721-1734 at most disclose the use of "tagging" in conjunction with encryption *for supporting the secure storage of information on inexpensive secondary storage memory.*

Nothing in the cited paragraphs appears to be relevant to the invention claimed in claims 33-36 and 52 because nothing in these paragraphs discloses the claimed feature of "detection of a predetermined tag within content passed along a communication path and it does not disclose reporting such a detection together with information identifying a sender and/or recipient of the content."

*Claim 46*

With respect to claim 46, the Office Action indicates that paragraph 173 anticipates the claimed features. However, paragraph 173 at most discloses general security measures for handling VDE objects. Paragraph 173 discusses different security techniques, including tagging, which is further explained in paragraphs 1721-1734 (discussed above). Finally, paragraph 173 discloses "special purpose hardware" employed by the VDE system. Nothing in paragraph 173 discloses a method comprising: "obtaining content, placing the content and tag into a payload portion of the message, and transmitting the message over the network including the device."

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*Claim 56*

With respect to claim 56, the Office Action alleges that paragraphs 1200-1326 anticipate what is claimed. However, paragraphs 1200-1326 at most disclose data structures used in a VDE system, including data structures that track the usage of VDE objects and data structures that store permissions records, including the sub-records that are contained in a permission record. Ginter further discloses in paragraphs 1203-1286 that each electronic appliance must have at least one permission record for each VDE object. Paragraphs 1287-1299 disclose the process and data structures used to register VDE objects at each "electronic appliance" and to associate each object with permissions records, methods and load modules. Finally paragraphs 1300-1326 discuss the storage of information related to the shipping and receiving of each VDE object on each electronic appliance. Applicant found nothing in paragraphs 1200-1326 or anywhere else in Ginter that discloses what is claimed by claim 56 – specifically, nothing in paragraphs 1200-1326 discloses any of the features of "a method of generating a control message by a network device to be sent to a monitoring center connected to the device, the control message indicating passing of content having a predetermined tag embedded within the content through the network device, the control message comprising an identification of the content originating device, a destination address for the content, and a flag created by the network device."

Applicant did not find anything in the cited passages or elsewhere in Ginter that discloses the features of independent claims 33-36, 46, 52 or 56. Specifically, Applicant submits that the cited passages do not disclose at least the features of claims 33-36 and 52 whereby a network device will "detect a predetermined tag within [the] content passed along a communication path and to report the detection together with information identifying a sender and/or recipient of the content." With respect to claim 46, Applicant did not find anything in Ginter that discloses at least the steps of the method of claim 46 comprising: "obtaining content, placing the content and tag into a payload portion of the message, and transmitting the message over the network including the device." Additionally, Applicant did not find anything in Ginter that discloses the features of claim 56, specifically "a method of generating a control message by a network device

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to be sent to a monitoring center connected to the device, the control message indicating passing of content having a predetermined tag embedded within the content through the network device, the control message comprising an identification of the content originating device, a destination address for the content, and a flag created by the network device."

Claims 54, 37-38, 41 and 47-50

*Claim 54*

With respect to claim 54, Applicant respectfully submits that because claim 54 is an apparatus performing the steps of the method claimed in claim 46 that claim 54 is allowable for at least the same reasons as explained with respect to claim 46 above. The Office Action cites paragraphs 1659 and 1903-1984 as well as Figure 69 and the accompanying text as anticipatory subject matter for claim 54. However, paragraphs 1659 and 1903-1984 at most disclose the use of smart objects (e.g. objects that provide search services) within a VDE system, the digital management and signing of electronic agreements, and keys for digitally signing and/or encrypting data. Figure 69 and the accompanying text at most disclose the downloading of firmware to a VDE "electronic appliance," including security checks to verify that the firmware has not been tampered with. Therefore, Applicants respectfully submit that claim 54 is not anticipated by Ginter and is in condition for allowance because nothing in Ginter discloses a computer program that performs at least the method steps of "obtaining content, placing the content and tag into a payload portion of the message, and transmitting the message over the network including the device."

*Claims 37-38, 41 and 47-50*

With respect to dependent claims 37-38, 41, and 47-50, Applicant respectfully submits that each of these claims ultimately depends from one of claims 34, 36, or 46, and therefore, that claims 37-38, 41, and 47-50 are each allowable for at least the same reasons as argued above with respect to claims 34, 36 and 46.

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Applicant respectfully submits that the Office Action has not sufficiently established anticipation of any elements of claims 33-38, 41, 46, 47-50, 52, 54, and 56-57 and, if the Office is going to maintain the rejections put forth under 35 U.S.C. §102, that the Office Action specifically state which portions of the reference anticipate each feature of the pending claims.

Applicant respectfully submits that the instant application is in condition for allowance and respectfully solicits prompt notification of the same. Should the Examiner believe that a conversation with Applicant's representative would be useful in the prosecution of this case, the Examiner is invited and encouraged to call Applicant's representative.

Respectfully submitted,

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